REMARKS

Claims 1-24 are pending in the Application and all were rejected in the Office action mailed June 12, 2008. No claims are amended by this response. Claims 1, 11, and 19 are independent claims. Claims 2-10, 12-18, and 20-24 depend from independent claims 1, 11, and 19, respectively. The Applicant respectfully requests reconsideration of the pending claims 1-24 in light of the following remarks.

Applicants respectfully note that no claims are amended by this response. Therefore, this submission does not raise new issues that would require a further search.

Rejections of Claims

Claims 1-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al. (US 7,082,549, hereinafter "Rao") in view of Yang (US 20040040020). Applicants respectfully traverse the rejection.

The Applicants note that a goal of patent examination is to provide a prompt and complete examination of a patent application.

> It is essential that patent Applicant obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, USPTO personnel should state all reasons and bases for rejecting claims in the first Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, USPTO personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

(Manual of Patent Examining Procedure (MPEP) § 2106(II)) (emphasis added).

The Applicants assume, based on the goals of patent examination noted above, that the current Office action sets forth "all reasons and bases" for rejecting the claims.

Applicants respectfully note that all rejections are for reasons of obviousness.

Applicants respectfully submit that the Office action has failed to establish a *prima facie* case of obviousness, in accordance with M.P.E.P. §2142. According to M.P.E.P. §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." M.P.E.P. §2142 further states that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." As recognized in M.P.E.P. §2142, "[t]he Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), 82 USPQ2d 1385, 1396 noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." In addition, the Federal Circuit has made clear that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR,* 127 S. Ct. 1727 (2007), 82 USPQ2d at 1396.

The Applicant respectfully notes that the present application was filed on March 1, 2004, and claims priority to U.S. Provisional Application No. 60/450,908, filed February 28, 2003.

Applicant respectfully submits that, in accordance with 35 U.S.C. 103(c), Rao is not a valid reference in the rejection of claims 1-24 under 35 U.S.C. 103(a), because the present application and Rao (Pat. App. No. 10/636,864, filed August 7, 2003, which published as U.S. Published Application No. 2004/0123282 on June 24, 2004; now U.S. Patent No. 7,082,549, issued July 25, 2006), and the present application were, at the time the invention was made, owned by, or under a common obligation to assign ownership to, Bitfone Corporation.

Further, Applicant respectfully submits that, in accordance with 35 U.S.C. 103(c), Yang is not a valid reference in the rejection of claims 1-24 under 35 U.S.C. 103(a), because the present application and Yang (Pat. App. No. 10/635,991, filed August 7, 2003, which published as U.S. Published Application No. 2004/0040020 on February 26, 2004) and the present application were, at the time the invention was made, owned by, or under a common obligation to assign ownership to, Bitfone Corporation.

Therefore, Applicant respectfully submits that, in accordance with 35 U.S.C. §103(c), both Rao and Yang are not valid prior art in the rejection of claims 1-24 under 35 U.S.C. §103(a), that the Office has failed to establish a *prima facie* case of obviousness, and that claims 1-24 are allowable over the proposed combination of Rao and Yang. Accordingly, Applicant respectfully requests that the rejection of claims 1-24 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

Conclusion

In general, the Office Action makes various statements regarding the claims and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicant believes that all of pending claims 1-24 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicant invites the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Dated: September 12, 2008

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